

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	X	
	:	
<i>In re</i>	:	Chapter 11
	:	
NEWPAGE CORPORATION, <i>et al.</i>,	:	Case No. 11-12804 (KG)
	:	
Debtors.¹	:	Jointly Administered
	:	
	X	

**STIPULATION BY AND AMONG THE DEBTORS AND THE UNITED STATES
OF AMERICA ESTABLISHING AGREED RESERVE FOR PLAN DISTRIBUTION**

This stipulation (this “Stipulation”) is made and entered into by and among NewPage Corporation (“NewPage,” together with certain of its subsidiaries and affiliates, as debtors and debtors in possession, the “Debtors”) and the United States of America (the “United States,” and, together with the Debtors, the “Parties”) to establish an agreed reserve for distribution under the *Debtors’ Fourth Amended Joint Chapter 11 Plan* [Docket No. 2635] (the “Plan”) with regard to proof of claim number 2659 (“Claim 2659”) filed by the United States.

RECITALS

WHEREAS, on September 7, 2011 (the “Commencement Date”), each of the Debtors commenced a voluntary case under title 11 of the United States Code (the “Bankruptcy Code”); and

¹ The debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Chillicothe Paper Inc. (6154), Escanaba Paper Company (5598), Luke Paper Company (6265), NewPage Canadian Sales LLC (5384), NewPage Consolidated Papers Inc. (8330), NewPage Corporation (6156), NewPage Energy Services LLC (1838), NewPage Group Inc. (2465), NewPage Holding Corporation (6158), NewPage Port Hawkesbury Holding LLC (8330), NewPage Wisconsin System Inc. (3332), Rumford Paper Company (0427), Upland Resources, Inc. (2996), and Wickliffe Paper Company LLC (8293). The Debtors’ corporate headquarters is located at 8540 Gander Creek Drive, Miamisburg, OH 45342.

WHEREAS, on March 2, 2012, the United States, on behalf of the United States Environmental Protection Agency and the United States Department of the Interior, filed Claim 2659 against Debtor NewPage Wisconsin System Inc. (“NPWSI”), asserting NPWSI is liable under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) for “the recovery of response costs, natural resource damages, and assessment costs” arising from clean-up efforts at the Lower Fox River and Green Bay Superfund Site (the “Fox River Site”), which is contaminated with polychlorinated biphenyls; and

WHEREAS, in Claim 2659, the United States asserts, among other things, that, pursuant to CERCLA Sections 107(a) and 107(f), 42 U.S.C. §§ 9607(a) and 9607(f), NPWSI is jointly and severally liable for (i) at least \$21,596,010 in unreimbursed response costs related to the Fox River Site, plus interest on such costs; (ii) an estimated \$417 million in future response costs related to certain areas of the Fox River Site, including an estimated \$395 million in remedial action costs and an estimated \$22 million in oversight costs; and (iii) damages in the range of \$239 million to \$378 million, arising from injury to, or destruction or loss of, natural resources resulting from the alleged release of hazardous substances to the environment at the Fox River Site; and

WHEREAS, in Claim 2659, the United States further asserts protective claims for (i) post-petition liabilities and response costs related to the Fox River Site, and (ii) injunctive obligations to comply with work requirements imposed by law; and

WHEREAS, on March 5, 2012, the United States filed proof of claim number 2668 (“Claim 2668”), which is identical to and duplicative of Claim 2659; and

WHEREAS, on November 7, 2012, the Debtors filed the *Debtors' Fourth Amended Joint Chapter 11 Plan* [Docket No. 2635] (the "Plan");² and

WHEREAS, as set forth in the Plan, on the Effective Date, each holder of an allowed general unsecured claim at NPWSI shall receive from the Disbursing Agent on account of its claim its pro rata share of the (i) Settlement Cash, and (ii) GD Class 3A Litigation Trust Interests (the "NPWSI Plan Distributions"), *see* Plan at Section 3.4.4; and

WHEREAS the Parties are negotiating a resolution to the allegations set forth in Claim 2659, which are also the basis of an action currently pending in the United States District Court for the Eastern District of Wisconsin, Case Number 10-C-910 (the "Wisconsin Action"), and have agreed to the terms set forth in this Stipulation;

NOW, THEREFORE, in consideration of the foregoing, the Parties hereby stipulate and agree, subject to Bankruptcy Court approval, that:

AGREEMENT

1. The above recitals are true and correct and are incorporated herein by reference.
2. Upon the Effective Date, the Reorganized Debtors shall establish a separate dedicated reserve from the NPWSI Plan Distributions in the Litigation Trust in an amount equal to a distribution on a general unsecured claim of \$5 million in Class 3A under the NPWSI Plan (the "Fox River Reserve"). The Fox River Reserve shall be the United States's sole source of recovery on account of Claim 2659.

² Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to such terms in the Plan.

3. Distributions, if any, to the United States with regard to Claim 2659 from the Fox River Reserve shall be made only upon the occurrence of one of the following: (i) a settlement entered into by Parties of Claim 2659; (ii) the entry of a final, non-appealable order in the Wisconsin Action determining an amount of liability, if any, in respect of NPWSI's liability, which is the basis for Claim 2659; or (iii) the entry of a final, non-appealable order in the Wisconsin Action determining that NPWSI has no liability for the Fox River Site (in any such event, a "Resolution").

4. Unless otherwise agreed in writing by the Parties, the Fox River Reserve shall be maintained and not released until (i) Claim 2659 is deemed allowed in accordance with the Plan, or (ii) a Resolution determining NPWSI has no liability at the Fox River Site. In the event the latter occurs, the Fox River Reserve shall be released to the Litigation Trust. If Claim 2659 is ultimately allowed in an amount less than \$5 million, after NPWSI Plan Distributions are made to the United States from the Fox River Reserve, the balance of the Fox River Reserve shall be released to the Litigation Trust.

5. Claim 2668 will be disallowed as duplicative of Claim 2659 and expunged in its entirety.

6. This Stipulation is a compromise setting an upper limit and cap on distributions under the Plan in respect of Claim 2659. Nothing contained herein shall be deemed an admission or concession by any party as to the extent, validity, or merits of any fact or claim asserted in the Wisconsin Action or any related litigation. The establishment of the Fox River Reserve is without prejudice to any of the rights, claims, and/or defenses of the Parties in the Wisconsin Action or any related litigation, *provided, however*, that, to the extent the Fox River Reserve is insufficient to satisfy any judgment against NPWSI in the Wisconsin Action, the

United States waives and shall be forever barred from asserting any right to payment on account of such deficiency from the Litigation Trust, the Debtors, Reorganized Debtors, and, as applicable, their respective subsidiaries and affiliates, successors in interest, or any of their respective assets.

7. The execution, delivery, and effectiveness of this Stipulation shall not, except as expressly provided herein, operate as a waiver of any right, power, or remedy of any party.

8. The Parties agree to seek immediate approval of this Stipulation by the Bankruptcy Court, and this Stipulation will not be effective until such approval is obtained. In the event this Stipulation is not approved by the Bankruptcy Court, this Stipulation shall be of no force and effect and none of its provisions will be deemed to prejudice or impair any of the Parties' respective rights and remedies nor may it be used in any way against any of the Parties hereto in any litigation or contested matter.

9. This Stipulation constitutes the entire agreement between the Parties hereto relating to the Fox River Reserve, notwithstanding any previous negotiations or agreements, oral or written, between the Parties with respect to all or any part of the subject matter hereof. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, with respect to all or any part of the subject matter of this Stipulation are superseded by this Stipulation and shall be of no further force or effect.

10. The Parties hereto have each cooperated in drafting this Stipulation. Therefore, in any action or proceeding concerning this Stipulation, the provisions hereof shall be construed as if jointly drafted by the Parties hereto.

11. Each person who executes this Stipulation represents that he or she is duly authorized to execute this Stipulation on behalf of the respective Parties hereto and that each such party has full knowledge and has consented to this Stipulation.

12. This Stipulation may not be modified other than by a signed writing executed by the Parties hereto or by further order of the Bankruptcy Court. This Stipulation may be executed in one or more counterparts, any of which may be transmitted by facsimile or electronic transmission, and each of which shall be deemed an original, but all of which together shall constitute one and the same document.

CONSENTED AND AGREED TO BY:

COUNSEL FOR THE DEBTORS

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*Co-Attorneys for the Debtors
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Dated: November __, 2012

UNITED STATES

UNITED STATES OF AMERICA

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Dated: November __, 2012